

Meeting of 2006-10-24 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
OCTOBER 24, 2006 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Lonnie Hansen, New Rock Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two  
   Janice Drewry, Ward Three  
   Keith Jackson, Ward Four  
Robert Shanklin, Ward Five  
   Jeff Patton, Ward Six  
   Stanley Haywood, Ward Seven  
   Randy Warren, Ward Eight

ABSENT: None

RECOGNITION OF DONORS TO LMAAQC AIR QUALITY CAMPAIGN

Mayor Purcell stated the Clean Air Lawton campaign is a program designed to make all of us in the city aware of the importance of air quality and educate us on the ways we can reduce pollution. He presented plaques to those organizations that have helped spread the message. He presented awards to Clear Channel Communications, Perry Broadcasting, KBZQ, KSWO, Lawton Constitution, AEP-PSO, KCCU, Burger King, EZ-Go, IBC Bank, Warrens Imports and LATs.

PRESENTATION OF PROCLAMATION FOR 2006 PROJECT ALPHA

Mayor Purcell proclaimed October 28, 2006 to be Project Alpha Day and encouraged all citizens to support the March of Dimes, Alpha Phi Alpha and Cameron University in their efforts to educate the young men in Lawton. He thanked Jennifer Goodwin and Leroy Giles for their efforts.

INTRODUCTION OF 2006-2007 STUDENT CIVIC COUNCIL

Leroy Giles, Parks and Recreation Division, introduced the 2006-2007 Student Civic Council members.

Mayor Purcell stated one of the reasons the council was established is so that the students could give input to the City Council. He asked that if they have anything they feel will improve the city of Lawton, they need to contact a council member. He stated they need the input from the youth in the community.

AUDIENCE PARTICIPATION:

Jack Cummings, Goodwill Village at 11<sup>th</sup> and Jefferson, stated he is concerned about handicapped citizens crossing at 11<sup>th</sup> and Lee and 13<sup>th</sup> and Lee. He stated he has talked with the traffic engineer and he hoped it would be on the agenda for tonight.

Mayor Purcell questioned if he was recommending crosswalks.

Mr. Cummings stated he suggested to the traffic engineer that they put some kind of a sign to slow down at 13<sup>th</sup>

and 11<sup>th</sup> when crossing Lee.

Mayor Purcell stated the City Manager will get with traffic engineering and take a look at the situation.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell stated the City Attorney has requested item #1 be discussed separately.

MOVED by Warren, SECOND by Givens, to approve the Consent Agenda items as recommended with the exception of item #1. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

1. Consider the following damage claim as recommended for denial: Patricia Williams in the amount of \$625.00, Stacy and Loyd Gerber in the amount of \$15.00, USAA Casualty Insurance Company in the amount of \$1,918.87, Richard and Tianna Lyons in the amount of \$52.00, Sam and Sondra Smith in the amount of \$242.04, SBC in the amount of \$742.93. Exhibits: Legal Opinions/Recommendations.

Vincent stated staff has received additional information on the SBC claim that staff did not technically observe the underground facilities act and that would make this a payable claim. He recommended payment for the SBC claim and deny all others.

MOVED by Warren, SECOND by Patton, to approve the damage claim of SBC in the amount of \$742.93 with all the related documents. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

Patricia Williams, 6408 SW Glenhaven, stated on August 23<sup>rd</sup> she put a large brown box, tackle box and four trash bags in front of a tree in her yard. Her sister was to pick up the items. She was told by her neighbor that the trash men had picked them up. She called the city and John Thomas, Solid Waste Division Supervisor, came to her home. Mr. Thomas spoke with his crew and was told that they did pick up the items in her yard. The crew looked in the back of the truck and found the tackle box. She does not understand why the case was denied. She stated the crew admitted they took the items out of her yard.

Warren questioned the distance from the curb to the tree.

Ms. Williams stated it was about the distance from the Mayor's seat to the podium. She stated she would not have filed the claim if she could have gotten her items back, but the crew could not find them.

Vincent stated this is one of the toughest claims they have had. They could not find the items, but they did find the tackle box in the back of the truck.

Mitchell questioned if this was during a clean up period.

Ms. Williams stated no, this was a regular pick up day.

Vincent stated that sometimes other people drive by and pick things up.

Ms. Williams stated she does know people who curbside shop, but this was in her yard and the crew did admit removing the items.

Warren stated this is a little steep for him, but he can't say exactly what was in the box and bags.

Shanklin stated they do not know what was included and questioned if Ms. Williams would be happy with \$300.

Ms. Williams stated she had Timberlands in the box that cost \$150. She stated she has a list of things that were in that box. She is not trying to stiff the City of Lawton.

MOVED by Warren, SECOND by Haywood, to approve **Resolution 06-166** approving the damage claim of Patricia Williams in the amount of \$625.00 with all the related documents. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

Haywood stated he received a call from Sondra Smith. He requested the City Attorney summarize the claim.

Vincent stated that all of the repairs took place in the right of ways of city property. He stated there is a city ordinance and council policy that states this is not a payable claim if the repairs took place out in the right of way.

Shanklin stated they have been paying these.

Mayor Purcell stated they pay some and they don't pay others.

Shanklin stated they have paid them and these people are buying our water and they have a clean place.

Shoemate stated Mr. Smith has actually tried to fix his lines two times out of the three.

MOVED by Shoemate, SECOND by Haywood, to approve the damage claim of Sam and Sondra Smith in the amount of \$242.04 with all the related documents. AYE: Shanklin, Haywood, Warren, Shoemate, Givens, Drewry. NAY: Patton, Jackson. MOTION CARRIED.

MOVED by Warren, SECOND by Shoemate, to deny the claims of Stacy and Loyd Gerber in the amount of \$15.00, USAA Casualty Insurance Company in the amount of \$1,918.87 and Richard and Tianna Lyons in the amount of \$52. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

Mayor Purcell stated they need to decide what guidance to give the City Manager and the City Attorney on these claims. If they are going to keep approving these claims they need to change the ordinance. They keep violating the ordinance. He questioned if the City Council wants to bring back an ordinance which says that they will pay.

Drewry stated they expect these people to take care of these easements.

Mayor Purcell stated at least this will give them the ability to pay these claims.

Jackson questioned if they are talking about all kinds of fences in right of ways. How broad are they going to get.

Shanklin stated they are talking about where people have been taking care of their yards, buying the water and beautifying their yards and we inadvertently tear it up. Why shouldn't we help them?

Mayor Purcell stated Mr. Shanklin is talking about sprinkler systems only.

Vincent stated they had a committee of council members that met with the utility companies to discuss the use of easements and right of ways by the utility companies and the public. As a result of that committee, they have the ordinance and council policy. If they change the ordinance they also have to change council policy.

Mayor Purcell stated it appears that a majority of the City Council want staff to bring back an ordinance change for sprinkler systems only. It will be brought back and discussed.

2. Consider authorizing litigation in the City's collection efforts to recover damages caused to the City by a vehicle operated by Linda Marie Mandrell, who was involved in an automobile accident with an on-duty City of Lawton employee. Exhibits: None.

3. Consider ratifying the action of the City Attorney and the City Manager in not recommending an appeal of the judgment in the Workers' Compensation case of William Looney in the Workers' Compensation Court, Case No. 2004-15346-H. Exhibits: None.

( **Resolution 06-167** )

4. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of the judgment in the Workers' Compensation case of Steven Laughy in the Workers' Compensation Court, Case No. 2005-116505 X. Exhibits: **Resolution 06-168**.

5. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of the judgment in the Workers' Compensation case of Walter Chrismon in the Workers' Compensation Court, Case No. 2006-02013 X. Exhibits: **Resolution 06-169**.

6. Consider approving a request to enter into a contract application process with the Oklahoma Highway Safety Office and the City of Lawton for an overtime reimbursement of traffic enforcement project. This contract will be in conjunction with the Project Under 21 Enforcement Grant. Exhibits: Copy of the project contract application request in the amount of \$82,000.00 .

7. Consider approving the construction plat for St. James Place subject to conditions. Exhibits: Plat Map.

8. Consider approving the record plat for Eastlake Addition, Part 2, and accepting the improvements, escrow in lieu of completed improvement, and maintenance bonds. Exhibits: Plat Map. Escrow Agreement and Maintenance Bonds on file in the City Clerk's Office.

9. Consider approving the record plat for the Replat of Lots 16, 17, and 18, Block 2, Sunset 2<sup>nd</sup> Addition. Exhibits: Plat Map.
10. Consider extending contract award period of thirty (30) days to ninety (90) days for the NE Bell Drive Drainage Improvement Project #2006-3. Exhibits: None.
11. Consider accepting two (2) permanent easements from the Commissioners of the State School Land Commission which are needed for the Southeast Water Treatment Plant Project and for the Water Infrastructure Improvement Phase 1 (Lines) Project #2006-8, authorizing the Mayor and City Clerk to execute the easements and authorizing payment as listed below. Exhibits: Documents are on file in the City Clerk s office.
12. Consider awarding a construction contract to Concrete Services Corporation for the WWTP Sludge Wetwell Project #2006-5. Exhibits: None.
13. Consider adopting Street Light Resolution No. 448 to authorize the installation of street lights at various locations listed in the Resolution. Exhibits: Street Light Resolution No. 448.
14. Consider awarding (CL07-006) Fire Hydrants (Items 1-5, 15) to American Waterworks Supply of Norman, OK and (Items 6-14) to Hydraflo, Inc., of Beaumont, TX. Exhibits: Department recommendation, abstract of bids.
15. Consider awarding (CL07-007) Self-propelled, Self-loading Scraper to Warren Cat of Oklahoma City, OK, and authorize the proceeds from the sale of the two existing scrapers to be allocated toward the remaining payoff of the new scraper Exhibits: Department recommendation, abstract of bids.
16. Consider approving appointments to boards and commissions. Exhibits: None.
17. Consider approval of payroll for the period of September 12 October 8, 2006. Exhibits: None.

#### BUSINESS ITEMS:

18. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density and Residential/High Density to Industrial and an ordinance changing the zoning from A-1 (General Agricultural District) to I-3 (Light Industrial District) zoning classification located at 2402 SE Flower Mound Road. Exhibits: Resolution 06-\_\_\_, Ordinance 06-\_\_\_, Location Map, Site Plan, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for a 3.67 acre tract located on the east side of SE Flower Mound Road, north of Bishop Road. The applicant is Weber s Diesel Service, LLC. The proposed use is a diesel repair shop.

The zoning of the surrounding area is A-1. The land use of the surrounding area is agriculture to the north, south, and east and Weber s Diesel Repair Shop and single-family residences to the west. The 2025 Land Use Plan designates this area as Residential/Low Density and Residential/High Density closer to Bishop Road. The proposed use of a diesel repair shop requires I-3 zoning as a minimum. The existing diesel repair shop to the west was existing prior to annexation of the property and is therefore a legal, nonconforming use. He stated the basis for the approval is there is something already there and they are making it better for the community. The applicant has stated that the existing nonconforming facility would not be used for the diesel repair shop once the new facility is constructed.

Jackson stated he was responsible for annexing this area several years ago. He questioned if the plans are to clean all this up and revert to an agricultural use or will it be left as it is.

#### PUBLIC HEARING OPENED.

Chuck Wade, attorney for the applicant, stated they intend to convert the property for storage for farm equipment and machinery. It will be reverted for an agricultural use. He stated he has spoken with the principal at Flower Mound School, which is close by, and they have no objections to the rezoning.

#### PUBLIC HEARING CLOSED.

Jackson stated these are very nice people and they do a good business.

MOVED by Haywood, SECOND by Jackson, to approve **Resolution 06-169** and **Ordinance 06-77**, waive the reading of

the ordinance, read the title only. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-77

An ordinance changing the zoning classification from the existing classification of A-1 (General Agricultural District) to I-3 (Light Industrial District) zoning classification on the tract of land located at 2402 SE Flower Mound Road which is hereinafter more particularly described in Section One (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

19. Hold a public hearing and consider an ordinance amending Section 21-2-206.1, and Section 21-2-207, Article 21-2, and Section 21-3-305, including Appendix B, Article 21-3, Chapter 21, Lawton City Code, 2005, providing for the posting of a surety bond in lieu of completing the water, sewer, streets and drainage improvements for subdivisions, providing for the types of acceptable sureties and time limit for completion and dedication of improvements, providing for the issuance of conditional building permits during the surety time period, providing for severability and declaring and emergency. Exhibits: Ordinance 06-\_\_.

Rogalski distributed a new version of the ordinance that is different than what was in the agenda packets. He stated the current development process is not the fastest and it is really showing the problems with the process.

Staff has met with members of the development community to try and speed up the process and paralleling the issues. This piece will allow for the bonding or placement of assurity or a promise for the improvements for a subdivision at the time of a record plat. After the construction plans are approved, based on the estimate provided by the engineer and approved by the city, they will post a bond for 125% of that estimated construction cost, thereby placing the guarantee for those improvements. After that bond has been accepted and the plat has been recorded, the developer can then go out and build his project. At the same time as he is building his streets, sewers and water lines, he can legally sell lots and pull building permits. All these things can happen at one time.

Council will then accept all the improvements as well as the record drawing. This will all be done before the buyer moves in. This will take two or three months off of the project. The change is on item #6. It was decided that the building permits for the homes would be allowed right after the record plat recordation. The developers are willing to coordinate all these things going on at once.

Vincent stated item #6 now reads that no building permits will be issued for construction until all functional improvements have been constructed. The big change will be when the city would issue the building permit. He stated this is a whole new subparagraph on #6.

Shanklin questioned the issue of occupancy.

Vincent stated no occupancy shall be allowed until all the improvements are in and accepted and dedicated. They can build a house, but they can't occupy it until the sewer and water lines, streets and storm drains are accepted by the City of Lawton. He stated the developer can do it the way we are doing it now, which means you build everything, get the record plat done before you can sell the first lot or you can post the bond and start building.

Shanklin questioned where they are doing this in Oklahoma and is it successful.

Rogalski stated they are doing this in Norman, Tulsa and Oklahoma City. He stated in his career, every project he ever designed was bonded. It is a standard process. He stated they are getting a guarantee for those improvements. He stated he has never seen a bond pulled. The developer will destroy his credit rating and he can never get another bond. He does not see a risk to the City.

Shanklin stated he has a problem with this. He has built houses and sometimes you don't get them on the lot like you think you did. There is one out in Wyatt Acres where you can see that the house is offset.

Rogalski stated anyplace in the process somebody can make a mistake and cause us to jam up. They can build the house in the wrong spot before or after the roads are build. They would still have to go back and adjust the plat. That is going to happen irregardless. There will be issues with contractors getting in the way of each other, but that is not our problem.

Shanklin questioned if there is any board that will regulate when there is a foul up or will it be District Court. Will any of this come back to the City Council?

Rogalski stated if the developer does not get it done, it will come back to the City Council to pull the bond and build it. He stated it is a very rare occurrence.

Shanklin stated there are mistakes made in elevation and drainage and even in the best of projects.

Rogalski stated the only time it will come back to City Council is if they don't build it and we pull the surety on it or

when it is time to accept the improvements. When things are built in the wrong spot, staff tells the developer that it will not go to Council until it is fixed. They are still held up with their certificate of occupancy. Those mistakes get solved every day.

Warren stated the contractors, developers and builders still have to jump through all the same hoops, they just don't have to wait for the City to bring those hoops, all the hoops are there and they jump through them at their own speed and they can build their projects as they see fit, as far as speed wise.

Shanklin questioned who would be the judge of these mistakes and will it come to the City Council or go to District Court.

Vincent stated it will not go to the City Council until the city staff brings it and says all of the contingencies on the construction plat have been satisfied.

Shanklin questioned if the developer could bring it to a Council member and say they aren't being treated right.

Vincent stated as far as staff position, that hasn't change from the old code to the new code that is being proposed here. They are not proposing a change in that area. All that is being proposed is that the developer can get started 3-4 months earlier on the actual construction of houses and selling houses.

Shanklin stated he can see some headaches coming this way.

Mayor Purcell questioned if anyone has contacted the insurance industry to see if they can even obtain a bond.

Rogalski stated someone has already submitted one.

Shanklin stated this ordinance says you cannot adjust your lot lines, regardless of some honest error.

Patton stated they could go before the Board of Adjustment.

Shanklin stated that takes months.

Mayor Purcell stated that is not one of the proposed changes. That is what is currently in the code.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Warren, SECOND by Drewry, to approve **Ordinance 06-78**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-78

An ordinance, related to subdivision of land, amending Section 21-2-206.1, Section 21-2-207 and Section 21-3-305, Chapter 21, Lawton City Code, 2005, providing for the posting of a surety in lieu of completing the water, sewer, streets and drainage improvements for subdivisions, providing for the types of acceptable sureties and time limit for completion and dedication of improvements and providing for issuance of conditional building permits during the surety time period, providing for severability, and declaring an emergency.

20. Discuss options for a future sales tax election to fund infrastructure projects needed to support anticipated population growth as a result of recent BRAC announcements made by the Department of Defense and Fort Sill.

Exhibits: Email from Council Member Randy Warren, dated October 13, 2006, City of Lawton CIP Proposed Road Projects

and Letter to Senator Randy Bass, dated March 10, 2006.

MOVED by Givens to table this issue and set a date for a future workshop to discuss this item.

Motion failed due to a lack of a second.

Jackson stated he agreed with tabling this issue as quickly as possible. They would like to get it on the ballot as soon as possible.

Vincent stated if they are looking at the February ballot, it has to be at the election board by December 14<sup>th</sup>.

Shanklin questioned if they want to include Lawton Public Schools in this discussion.

Jackson stated he would rather discuss all of this in a workshop.

MOVED by Jackson, SECOND by Warren, to table this issue and schedule a special workshop on Monday, October 30<sup>th</sup> at 6:00 p.m. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

21. Consider waiving Council Policy 1-6, and if approved, reconsider adopting a Resolution authorizing the installation of a traffic control measure on the 1200 Block of SW Summit Avenue. Exhibits: Traffic Issue Request, Traffic Commission Minutes and Resolution 06-\_\_.

Shanklin stated he has had people from Goodwill call him and they are still adamant about reducing the speed to 20 mph. He stated there are three bars a block away and they come up the street a little faster than normal. The employees from Goodwill feel for their safety when crossing the street.

MOVED by Shanklin, SECOND by Warren, to waive Council Policy 1-6. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Shanklin, Patton. NAY: None. ABSTAIN: Jackson. MOTION CARRIED.

Vincent stated he received a question on whether this would constitute a school zone where the fines would be doubled. He stated it would not, it would be considered a speeding ticket.

Warren stated he did not understand why this would be an advisory sign.

Yellambalsi Ramachandra, Traffic Engineer, stated the regular speed is still 25 mph, but this is just a warning or caution sign. It is an advisory to slow down.

Warren clarified that the speed limit will still be 25 mph.

Ram stated yes.

Drewry questioned why they just don't make it 20 mph. If this is a problem they need to take care of it.

Givens stated they just need to take out the word advisory in the resolution.

Jackson stated as a result of his argument against this action, he would like to abstain due to a possible conflict of interest.

MOVED by Shanklin, SECOND by Haywood, to adopt **Resolution 06-170** authorizing the installation of a 20 mph speed limit signs on the 1200 Block of SW Summit Avenue in a segment covering existing handicap warning zone. AYE: Warren, Shoemate, Givens, Drewry, Shanklin, Patton, Haywood, NAY: None. ABSTAIN: Jackson. MOTION CARRIED.

22. Consider approving an Architectural Professional Services Agreement between the City of Lawton and Meyer Architecture Plus, L.L.C. for the City of Lawton's Intermodal Transportation Museum Project funded through an Oklahoma Department of Transportation Grant (F.A. Project # STP-116E(130)EH). Exhibits: Architectural Professional Services Agreement between the City of Lawton and Meyer Architecture Plus, L.L.C. available for review in the City Clerk's Office.

Givens stated the City Council has already approved this agreement, but it has come back because they need to assign a temporary account. The City of Lawton has to put the money up first and they are then reimbursed from ODOT and from the 20% that the Museum has. It is required that they have a designated account.

MOVED by Givens, SECOND by Drewry, to approve an Architectural Professional Services Agreement between the City of Lawton and Meyer Architecture Plus, L.L.C. for the City of Lawton's Intermodal Transportation Museum Project funded through an Oklahoma Department of Transportation Grant (F.A. Project # STP-116E(130)EH). AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

23. Consider receiving a report on the City's financial condition for the 1<sup>st</sup> Quarter of fiscal year 2006-2007, and provide direction to staff. Exhibits: None.

Rick Endicott, Finance Director, stated the finance report for the first quarter has been distributed. He stated they will be discussing the time period from July 1, 2006 to September 30, 2006. The budget and revenue for our general and enterprise is \$54,389,000 and we have collected approximately 26%. We are at 25% of the year.

Sales tax is up \$319,000 or 7.3% compared to the same period last year. We have collected about 25% of our sales tax. He stated franchise tax is up \$69,000 or 13.5% as compared to last year. We have collected about 23% of the budgeted revenue. Police fines and bonds are down \$267,000 or 32% as compared to last year. He stated staff is researching this issue because it is such a significant number. He stated he did get some information from the Police Department that the number of tickets are about the same. There really is no good explanation at this point for such a huge difference. All other general fund revenue is up \$63,000 or 5.3%. We have collected 23% of the all other category.

Givens stated we are really a couple percent off of where we should be.

Endicott stated overall we are at 24%.

Givens questioned how we are compared to last year with respect to what came in and what was budgeted.

Endicott stated this time last year we had collected 25.33%.

Patton stated with regards to police fines we have only collected 10%. Last year we had collected 30%. He stated he knows that staff will investigate this issue.

Warren stated he would like to see what has happened with the fines. He requested Mr. Endicott email him when they find out what has happened.

Endicott stated when they do these comparisons they are very subjective. Depending on how conservative or non-conservative they are in the budget. Everything is relative to how the number in the budget came to be. They are comparing income to that budgeted number.

Givens stated the bottom line is that revenue is ahead.

Mayor Purcell stated that if the police were writing as many tickets there were a lot of things that were probably plea bargained out. That drives the amount of revenue way down. That may have a lot to do with what we saw during the first quarter.

Warren stated that does not mean that the police are not doing their job. Tickets are where they are suppose to be or even higher. That is not an issue.

Endicott stated water revenue is up \$625,000 or 18% from last year. Sewer revenue is up \$89,000 or 7% from last year. The landfill is up \$68,000 and they have collected about 28%. As far as expenditures on the general fund side, we are right at 26%, enterprise is 28% and the all other funds are around 30%, which is normal.

Shanklin stated our water for August and September is greater than it was last year. He questioned if that was reflected in this report.

Endicott stated overall they are up 8% just for the month of September.

24. Consider adopting an ordinance repealing Section 15-3-311, Article 15-3, Chapter 15, Lawton City Code, 2005, concerning the prohibition on tattooing, providing for severability, repeal, and establish an effective date of November 1, 2006. Exhibits: Ordinance 06-\_\_.

Vincent stated several months ago the City Council passed an ordinance paralleling the state statute on tattooing, allowing tattoo parlors which goes into effect November 1<sup>st</sup>. There was a conscious decision to leave the code as it is, prohibiting tattooing. However on November 1<sup>st</sup> it will be legal, so this is the clean up ordinance.

Patton questioned if the local ordinance mirrors the state statute.

Vincent stated it mirrors the state word for word. He stated he did get word from the License and Permit Center that there is a glitch in the application procedure, so staff will bring it back to the City Council to correct that application procedure.

MOVED by Shanklin, SECOND by Warren, to approve **Ordinance 06-79**, waive the reading of the ordinance, read the title only. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-79

An ordinance pertaining to health violations and nuisances, amending Section 15-3-311, Article 15-3, Chapter 15, Lawton City Code, 2005, by repealing the ordinance which prohibits tattooing and body piercing, providing for severability, repealer and an effective date.

25. Consider an ordinance amending Section 6-1-1-107, Division, 6-1-1, Article 6-1, Chapter 6, Lawton City Code, 2005, by adding a provision that restricts a property owner whose structure or structures are being considered by the City Council to be declared dilapidated from getting a building permit, providing for severability, and declaring an emergency. Ordinance 06-\_\_.

Jackson stated he wants to remind everyone that when that citizen comes to that podium and requests 30 or 90



more days, in the past they have allowed them to go through the building permit process. He stated this is going to happen.

Vincent stated there are two procedures. If you go down and get a remodel permit, you have six months to fix the property after the permit is issued. If the City Council declares the property dilapidated, you have thirty days to get the permit and approximately 90 days plus or minus some extensions. This ordinance states that once the notice has gone out, they can't run down to License and Permits and get the 180 day permit. They must wait for Council action. We are talking about a three week period where no one can get a building permit.

MOVED by Shanklin, SECOND by Drewry, to approve **Ordinance 06-80**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-80

An ordinance pertaining to buildings, construction and housing amending Section 6-1-1-107, Division 6-1-1, Article 6-1, Chapter 6, Lawton City Code, 2005, by restricting a property owner whose structure or structures are being considered by the City Council to be declared dilapidated from getting a building permit, providing for severability and declaring an emergency.

26. Consider an ordinance amending Sections 17-3-4-332, 333, 335, 336, 339, 342-353, 355, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the personnel policies and procedures effecting the City of Lawton retirement plan, providing for severability, and declaring an emergency. Exhibits: Ordinance 06-\_\_\_\_.

MOVED by Warren, SECOND by Jackson, to approve **Ordinance 06-81**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 06-81

An ordinance pertaining to personnel policies and procedures amending Sections 17-3-4-332, 333, 335, 336, 339, 342-353, 355, Division 17-3-4, Article 17-3, Chapter 17, Lawton City Code, 2005, by amending the consolidation of existing system and preservation of rights; definitions; consolidation of liabilities and assets; contributions and funding; normal retirement benefits; disability retirement benefits; restrictions on benefits to conform to IRS requirements; mandatory distributions; termination of benefits; optional forms of retirement benefits; death benefits; designation of beneficiaries; rollover to another plan or IRA; reemployment of former employees; employment after retirement; credit for actual military service; future service to include authorized leave of absence; and future changes in the operation of the retirement system, providing for severability, and declaring an emergency.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Jackson stated a constituent from the east side of town recently adopted a dog from the animal Shelter. He came to his business and asked him to pass along his comments that we run an outstanding animal shelter. He stated it is very clean and the employees were very helpful.

Jackson stated he is currently in the Leadership Oklahoma program and all the members of the program were at Fort Sill last weekend. He stated there were glowing remarks from people all over the state. One of the members is an editorial writer who wrote a front page article in the Daily Oklahoman. Everyone got a good impression of Lawton-Fort Sill. He stated they had a chuck wagon dinner at the Museum of the Great Plains and was hosted by City Councilor Rex Givens.

Mayor Purcell stated there were at least 15 people who have never been to Lawton.

Warren stated since there were some positive write ups he would think that the Governor may see his way clear to provide some BRAC funding at the state level, which is what most other states have done.

Drewry stated she was very impressed with the police and fire departments during the Moonlight Walk against Drugs.

Mitchell reminded everyone of the OML District Dinner on Thursday, 6:30 p.m. in Duncan.

Mayor Purcell stated there will be a groundbreaking ceremony for the new business building at Cameron University on Wednesday at 5:30 p.m. There will also be a social gathering with the Board of Regents from 6-7 p.m.

The Mayor and Council convened in executive session at 7:38 p.m. and reconvened in regular, open session at 8:40 p.m. Roll call reflected all members present excluding Patton who left the meeting at 8:35 p.m.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

27. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the purchase of property which is necessary for the Numu Creek Channel Improvement Project #2006-10 and, if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 27. Discussion of the various options took place.

MOVED by Drewry, SECOND by Givens, to accept an agreement providing for compensation and holding the City of Lawton harmless from the tenant reference the current lease, accept an access agreement, a warranty deed, a temporary access easement and give a permanent access easement all for property necessary for the Numu Creek project from Priest Brothers, Inc., authorize the Mayor to execute the same and authorize the payment in the amount of \$425,000 and accept a warranty deed and a temporary construction easement from Corley for property necessary for the Numu Creek project and authorize the Mayor to execute the same and authorize payment to the amount of \$51,500.00. AYE: Warren, Shoemate, Givens, Drewry, Shanklin. NAY: Haywood, Jackson. MOTION CARRIED.

28. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the purchase of property located in the vicinity of SW 45<sup>th</sup> Street and Bishop Road which is necessary for the Water Infrastructure Improvement Phase 2 (Tower) Project #2006-9 and, if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 28. No action is required.

29. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the lawsuit, in the Comanche County District Court, City of Lawton vs. Sherry Kelso, et al, Case No. CJ-2005-1156; and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 29. Discussion did take place concerning the new property owner.

MOVED by Haywood, SECOND by Shoemate, that the City of Lawton extend abatement period for 180 days on the dilapidated structure located at 1817 SW Garfield in the City of Lawton vs. Sherry Kelso, et al, Case No. CJ-2005-1156 so that the new owner, Joshua Bloom can proceed with remodeling. AYE: Givens, Drewry, Jackson, Shanklin, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

30. Pursuant to Section 307B.2&4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations concerning employees and representatives of employee groups and the proceedings in American Federation of State, County, and Municipal Employees Union vs. City of Lawton, Oklahoma, PERB No. M1400, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 30. Discussion did take place including the possibility of appointing a negotiating team.

MOVED by Warren, SECOND by Drewry, to appoint the following individuals to the City's negotiating team for negotiations with the general employee AFSCME Union: Greg Buckley, Tim Wilson and Sherry Anderson. AYE: Drewry, Jackson, Shanklin, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the consolidated lawsuit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of item 31. No action is required.

There being no further business to consider, the meeting adjourned at 8:46 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

